



Alliance of Western Milk Producers

Representing California's dairy cooperatives and their producer-owners since 1991

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September 29, 2004

The Honorable A.G. Kawamura, Secretary
California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Subject: Dairy Institute Class 1 Hearing Request

Dear Secretary Kawamura:

The Department has received a request from the Dairy Institute of California for a hearing to make adjustments to the Class 1 price formulas for Northern and Southern California.. The Alliance membership is vehemently opposed to a hearing being granted on this petition and urges the Department to deny the Institute's request for a number of reasons.

First, as you well know, the State is in the midst of the Hillside-Ponderosa lawsuits that address the pool obligations of California processors, including those represented by the Institute, as regards other source milk. In those lawsuits, the plaintiff out-of-state producers attacked the 1997 Amendments to the Pooling Plan that sought to eliminate Pool accounting procedures that created an unintended and artificial, yet nevertheless real, regulatory advantage that provided strong incentives for California processors to purchase out-of-state milk over California produced milk, primarily for Class 1 purposes. You also know, I am sure, that the Institute filed amicus briefs in support of the plaintiffs, a position, incidentally harmful not only to California producers, but also to the majority of the Institute's fluid processor membership.

Now, ironically, after having supported an attack that resulted at the District Court level, at least, in restoring the full pre-1997 artificial regulatory advantage in favor of out-of-state producers, the Dairy Institute, hypocritically in the guise of protecting California producers, seeks to reduce that advantage by reducing the Class 1 price at the expense of the very producers it purports to protect. This two-faced tactic should not be rewarded.

Second, CDFA is currently appealing the District Court's decision. We strongly suggest that holding a hearing at this time to reduce Class 1 prices on a petition based on the District Court decision that causes the problem in the first place, a hearing that would necessarily involve the very issues now on appeal, is not in the best interests of either the State, CDFA, the California dairy industry, California producers or California's milk consumers. California milk producers, through the efforts of the Alliance of Western Milk Producers and Western United Dairymen have spent substantial sums of California dairy farmer money to support CDFA's efforts to correct the unfair artificial regulatory advantage seized upon by out-of-state producers. It would be a slap in the face of every California milk producer for CDFA to grant the Institute's petition at this time or, frankly, at any time, or even to grant a hearing that might impact the matters on appeal.

Thirdly, California statutes require that California Class 1 prices be in a reasonable relationship

with Class 1 prices in surrounding states. The law doesn't say (and shouldn't say) that California Class 1 prices should bear a reasonable relationship to blend prices paid producers in surrounding states, as the Institute proposes in its petition. If it did, it would be bad law and worse economic policy.

Therefore, for all of the reasons above, the Alliance urges you to deny the Institute's petition as soon as possible.

Sincerely,



Jim Tillison, CEO

cc: Alliance Board of Directors
David Ikari, Dairy Branch Manager